Date: 20080219

Docket: IMM-1920-07

Citation: 2008 FC 210

Toronto, Ontario, February 19, 2008

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

SHATONY NATANYA SERGEANT

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The Applicant is a 22 year old female citizen of St. Vincent. She arrived in Canada eight years ago under a six month visitor's visa but nonetheless has remained in Canada ever since her arrival. A claim was made for refugee status but was apparently abandoned in May 2003. The Applicant applied for a pre-removal risk assessment (PRRA) and was notified by a letter with a decision dated March 30, 2007 that her application had been rejected. That is the decision under review.

[2] The PRRA application was made on the basis that the Applicant while a young schoolgirl living with her grandmother in St. Vincent was almost raped on two occasions. On one occasion she fought off her assailant suffering injuries to herself and kicking the assailant in his privates. No report was made to the police as they were seen as ineffective.

[3] The Applicant also has pending for almost a year an application for permanent residency bases on a family class sponsorship from within Canada. Her step-father, a Canadian citizen residing in Canada, is the sponsor. As of this date this application is still pending.

[4] It would not serve the interest of justice to return the Applicant to St. Vincent where she has no place to go, and run the risk of exposure to sexual assault when it appears that her sponsored application should soon be reviewed and completed. The matter will be returned for reconsideration by another PRRA officer who should await the result of the sponsored application and then, only if necessary, give further consideration to the matter.

[5] If such further consideration is necessary, the PRRA officer is to have regard to the statement of Shore J. in *Streanga v. Canada (MCI)*, 2007 FC 792 at paragraph 19:

> ***19*** *Evidence of improvement and progress by the state is not evidence that the current response amounts to adequate, effective protection. As held in the Federal Court decision of Balogh v. Canada (MCI), [2002] F.C.J. No. 1080 (QL) at paragraph 37, a state's willingness to provide protection is not enough:*
>
> > *I am of the view that the tribunal erred when it suggested a willingness to address the situation...can be equated to adequate state protection.*

JUDGMENT

For the above Reasons:

THIS COURT ADJUDGES that:

1. The application is allowed;
2. The matter is returned for re-determination by a different PRRA officer who should await the result of the Applicant's sponsored application and proceed only if necessary having in mind the statements of Justice Shore in *Streanga v. Canada (MCI)*, 2007 FC 792.
3. There is no question for certification.
4. No Order as to costs.

"Roger T. Hughes"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1920-07
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PLACE OF HEARING:	TORONTO, ONTARIO
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APPEARANCES:

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Leanne Briscoe	FOR THE RESPONDENT

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